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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,413	03/11/2004	Elliott Glazer	03292.100009.	7057
66569 7590 11/13/2008 FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
MISIASZEK, MICHAEL				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
11/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,413

Applicant(s)

GLAZER ET AL.

Examiner

Michael Misiaszek

Art Unit

3625

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2008 and 15 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7-21, 23-25, 29-43, 45, 46, 49-58 and 60-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-21, 23-25, 29-43, 45, 46, 49-58 and 60-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/15/2008 has been entered.

Response to Amendment

Applicant's amendments filed 8/15/2008 have been received and reviewed. The status of the claims is as follows:

Claims 1-3, 7-21, 23-25, 29-43, 45, 46, 49-58, and 60-66 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 7-13, 19, 20, 23, 29-35, 41, 42, 45, 50-54, 57, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers.

Regarding Claims 1, 23, 45, and 60

Sandus discloses a method and apparatus for a user to shop online in a three dimensional (3D) virtual reality (VR) setting, comprising:

- receiving a request at a shopping server to view a virtual shopping location (at least paragraph [0072]: customer accesses market system)
- displaying the virtual shopping location to a user computer in a 3D interactive simulation view via a web browser to emulate a real-life shopping experience for the user, the virtual shopping location having at least one store (at least figure 2: customer views virtual mall)
- obtaining a request to enter into a store of the virtual shopping location (at least paragraph [0084]: customer clicks on storefront to enter store)
- displaying the actual store website of the store on the user computer in the same web browser, in response to the request to enter into the store, wherein the

actual store website of the store is linked to the virtual shopping location (at least figure 3: customer presented with virtual view of store interior)

- receiving a request to insert the at least one product into a virtual shopping cart (at least paragraph [0084]: user can place product in shopping cart)

Sandus does not disclose:

- wherein the actual store website is independently managed by the store and does not reside on the shopping server
- storing said at least one product into a shopping cart memory
- receiving a request to purchase the at least one product in the virtual shopping cart, wherein said products are from different stores

Su teaches that it is known to include displaying a website of a store linked to a virtual shopping location, wherein the website is independently managed by the store and does not reside on the server of the virtual shopping location (at least paragraph [0047]: store-specific web pages reside and managed by each store's own computer server system) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, with the store website on a different server, as taught by Su, since such a modification would have provided more efficiency and flexibility in electronic shopping through a distributed network of store websites (at least paragraph [0024] of Su).

Nowers teaches that it is known to store products from different vendors in a shopping cart (at least paragraph [0204]) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, with the multiple vendor product shipping, as taught by Nowers, since such a modification would have provided increased efficiency in e-shopping by allowing users to receive products from multiple vendors as quickly and cheaply as possible (at least paragraph [0020] of Nowers).

Regarding Claims 7, 29, 50

Sandus does not disclose:

- shipping the purchased products using one tracking number in one shipment

Nowers teaches that it is known to include to ship the products in one shipment with one tracking number (at least paragraph [0046]: products shipped to customer in single shipment) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, with the multiple vendor product shipping, as taught by Nowers, since such a modification would have provided increased efficiency in e-shopping by allowing users to receive products from multiple vendors as quickly and cheaply as possible (at least paragraph [0020] of Nowers).

Regarding Claims 8-13, 30-35, 51-54

Sandus further discloses:

- wherein the actual store website has one or more enhanced VR features (at least figure 3: customer presented with virtual view of store interior)
- displaying at least one product in a store window to emulate real-life window shopping (at least paragraph [0082]: store windows emulated)
- displaying at least one product offer to emulate real-life sales advertising (at least paragraph [0082]: advertisers use virtual billboards to display product offers)
- displaying at least one customer representative to assist the user in real-time purchasing of the at least one product (at least paragraph [0147]: solicitors used to promote product purchases)
- receiving a request for a 360 degree interactive view of the at least one product (at least paragraph [0136]: three dimensional product image allows view of all sides)
- displaying a product information sheet received from a product information database (at least paragraph [0086]: product description provided)

Regarding Claims 19, 20, 41, 42, 57

Sandus further discloses:

- receiving a request at the shopping server to personalize the shopping location
(at least paragraph [0092]: customization of store/mall display)
- receiving a request at the shopping server to link-up with at least one other user
(at least paragraph [0125]: shopping companions)

2. Claims 2, 24, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers, as applied above and further in view of Pugliese, III et al. (US 20010044751 A1, hereinafter Pugliese).

Sandus, Su, and Nowers disclose the claimed invention except for:

- introducing a concierge to the user

Pugliese teaches that it is known to include introducing a concierge to a user (at least paragraph [0062]: virtual agent - ShopLive Assistant – assists user in shopping) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system and method, as taught by Sandus, Su and Nowers, with the concierge introduction, as taught by Pugliese, since such a modification would have provided more personal attention to a customer through an interactive system with a live sales person (at least paragraph [0007] of Pugliese).

3. Claims 3, 25, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers, as applied above and further in view of Olefson.

Sandus, Su, and Nowers disclose the claimed invention except for:

- the at least one product is a real estate property

Olefson teaches that it is known to sell real estate property in a virtual reality environment (at least abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus and Su, with the real estate property sales, as taught by Olefson, since such a modification would have provided increased efficiency in the real estate process through a means for realtors and their customers to save time and effort (at least paragraph [0006] of Olefson).

4. Claims 14, 15, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers, as applied above and further in view of DeAngelis.

Sandus, Su and Nowers disclose the claimed invention except for:

- receiving a request for a price comparison, a product comparison, or a merchant offer
- retrieving information data from a product comparison database and displaying the information data to the user

DeAngelis teaches that it is known to including displaying a product comparison when requested by a customer (at least paragraph [0009]) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, Su and Nowers, with the product comparison, as taught by DeAngelis, since such a modification would have provided more efficiency in an e-shopping environment via a portal for customers to obtain desired product information from a merchant (at least paragraph [0005] of DeAngelis).

5. Claims 16-18, 38-40, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers, as applied above and further in view of Howell .

Sandus, Su, and Nowers disclose the claimed invention except for:

- storing a clickstream data of the user's actions within the 3D VR setting in a clickstream database
- receiving a request from a merchant website to obtain said clickstream data
- automatically displaying product cross-selling information or product offers and information to the user based upon the stored clickstream data

Howell teaches it is known to store and obtain clickstream data (at least paragraph [0062]: shopping session browsing data stored in database and retrieved) and to use the data to display cross-selling information (at least paragraph [0062]: cross-selling information displayed) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, Su and Nowers, with the clickstream data usage, as taught by Howell, since such a modification would have provided a increased personalization of marketing and sales initiatives (at least paragraph [0062] of Howell).

6. Claims 21, 22, 43, 44, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandus in view of Su and Nowers, as applied above and further in view of Czepluch.

Sandus, Su, and Nowers disclose the claimed invention except for:

- presenting a shopping game to the user computer
- rewarding the user if the user wins the shopping game

Czepluch teaches that it is known to include presenting a shopping game to a user and rewarding the user upon a win (at least abstract) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and apparatus, as taught by Sandus, Su and Nowers, with the shopping game, as taught by Czepluch, since such a modification would have provided improved marketing through attracting customers to an e-commerce site (at least abstract of Czepluch).

Response to Arguments

Applicant's arguments with respect to the Nowers reference have been fully considered, but they are not persuasive. Applicant asserts that there is a patentable distinction between a multi-vendor shopping cart, as disclosed by Nowers, and a multi-store shopping cart, as claimed. The Examiner respectfully disagrees. In both cases, products, which are sold by different entities, are added to a single shopping cart. Thus functionally, the shopping carts are equivalent, even if, for the sake of argument, stores and vendors are held to be patentably distinct from each other.

Applicant's arguments with respect to claims 2, 24, and 46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiaszek whose telephone number is (571)272-6961. The examiner can normally be reached on 9:00 AM - 5:30 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art
Unit 3625

Michael A. Misiaszek
Patent Examiner
11/9/2008